

ESTTA Tracking number: **ESTTA618577**

Filing date: **07/30/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217006
Party	Defendant Flores, Herbert D.
Correspondence Address	FLORES, HERBERT D. FLORES, HERBERT D. PO BOX 818 MOSS BEACH, CA 94038-0818 HerbertFlores@msn.com
Submission	Answer
Filer's Name	Herbert D. Flores
Filer's e-mail	HerbertFlores@msn.com
Signature	/Herbert D. Flores/
Date	07/30/2014
Attachments	Its Cool to be Kind CERTIFICATION OF SERVICE July 30 2014.pdf(99014 bytes) Its Cool to be Kind Response July 30 2014.pdf(104721 bytes)

CERTIFICATION OF SERVICE

The undersigned hereby certifies that the foregoing NOTICE OF ANSWER against Trademark Application Serial No. 86/026,016 for the trademark IT'S COOL TO BE KIND has been served on Opposer by First Class Mail at the following address:

Margarita Wallach
Gary Fechter
Attorney for Opposer
Kind LLC
245 Park Ave, 27th Floor
New York, NY 10167

Dated: July 30, 2014

By: /s/Herbert D. Flores
Herbert D. Flores
ZonaFeliz

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kind LLC v. Herbert D. Flores dba ZonaFeliz
Opposition No. 91217006
Title: ANSWER

Count 1 – Likelihood of Confusion

Answer: Deny

Count 2 – Falsely Suggest a Connection with Opposer

Answer: Deny

Count 3 – Dilution

Answer: Deny

Count 1 –

I am a single proprietor trying to help make the world a little better by sharing a message of kindness.

As in “Its Cool to be Kind”, as an action or way of life. Not as “Its Cool to be Kind” as in its cool to be a product.

I sell tshirts with “It’s Cool to be Kind”, I am in no way in the food business or health bar business.

Count 2 and Count 3

Petitioner has the mark “Kind” for tshirts.

We never use the word “Kind” by itself and never would.

Petitioner has the mark “It’s Cool to be Kind” for food.

We want to use “It’s Cool to be Kind” for clothing not food.

Since the word “Kind” by itself, will never be used by me, how can any reasonable person be confused?

WHEREFORE, I humbly ask that we be allowed to use the mark “It’s Cool to be Kind” in Class 25.

Surly there is room enough for both of us, perhaps some kind of co-existence.

The petitioning attorney and I had reached an agreement but the modified marks were not received due

to some technical problem. I'm still open to this agreement.

Dated: July 30, 2014

Respectfully submitted,
Herbert D. Flores, dba ZonaFeliz

By: ___/s/___ Herbert D. Flores_____
Herbert D. Flores
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